

Order

Entered: July 9, 2003

**Michigan Supreme Court
Lansing, Michigan**

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

ADM File No. 2002-34

Amendment of Rules 7.211 and 7.216
of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 7.211 and 7.216 are adopted, effective September 1, 2003.

[The present language is amended as indicated below.]

Rule 7.211 Motions in the Court of Appeals

(A)-(B) [Unchanged.]

(C) Special Motions. [Unchanged.]

(1)-(7) [Unchanged.]

(8) Vexatious Proceedings. A party's request for damages or other disciplinary action under MCR 7.216(C) must be contained in a motion filed under this rule. A request that is contained in any other pleading, including a brief filed under MCR 7.212, will not constitute a motion under this rule. A party may file a motion for damages or other disciplinary action under MCR 7.216(C) at any time within 21 days after the date of the order or opinion that disposes of the matter that is asserted to have been vexatious.

(D)-(E) [Unchanged.]

Staff Comment: The July 9, 2003, addition of MCR 7.211(C)(8), effective September 1, 2003, requires a separate motion to request damages or other disciplinary action for vexatious proceedings. To assure jurisdiction to consider the issue and to provide finality to the appeal, such a motion must be filed within 21 days after the date of the order or opinion that disposes of the

matter that is asserted to have been vexatious. If the assertion concerns the entire appeal, the motion must be filed within 21 days of the date of the order or opinion that disposes of the entire appeal. If the assertion concerns a specific motion or motions filed by an opposing party, the motion for damages must be filed within 21 days of the date of the order disposing of the underlying motion or motions.

Rule 7.216 Miscellaneous Relief

(A)-(B) [Unchanged.]

(C) Vexatious Proceedings.

- (1) The Court of Appeals may, on its own initiative or on the motion of any party filed under MCR 7.211(C)(8), assess actual and punitive damages or take other disciplinary action when it determines that an appeal or any of the proceedings in an appeal was vexatious because

(a)-(b) [Unchanged.]

(2) [Unchanged.]

Staff Comment: The July 9, 2003, amendment of MCR 7.216(C)(1), effective September 1, 2003, was consistent with the addition of MCR 7.211(C)(8), on that same date.

Staff comments are published only for the benefit of the bench and bar and are not an authoritative construction by the Court.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 9, 2003

Corbin R. Davis

Clerk